



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

NR0268E1

-
26th Session
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O. Eng.

Brussels, 22 July 2002.

REPORTS ON THE MEETINGS OF THE POLICY COMMISSION (47TH SESSION)
AND THE COUNCIL (99TH AND 100TH SESSIONS)

(Item II.1 on Agenda)

Reference documents :

NC0510E2 (HSC/28 - Report)
NC0590E2 (HSC/29 - Report)
SP0092E1(PC/47)
SP0098E1(PC/47)
SP0099E1 (PC/47)

SP0101E1 (PC/47)
SP0105E2 (PC/47 - Report)
SC0034E1 (Minutes of the 99th/100th Sessions of the
Council)

I. BACKGROUND

1. The Policy Commission held its 47th Session in Brussels from 24 to 26 June 2002. The Council held its 99th and 100th Sessions in Brussels from 27 to 29 June 2002, which were opened with a celebration of the Council's 50th anniversary.
2. On the occasion of the Council's 50th anniversary, the Policy Commission and the Council considered both the Council's achievements and future challenges and focused on identifying the new challenges to Customs administrations in the face of the new international trade environment. In particular, the important issues of security and facilitation and the impact of Doha Ministerial Conference on Customs administrations dominated the agendas of the Policy Commission and the Council. As a result, the Policy Commission resolved a series of recommendations on strategic development, which were adopted by the Council.
3. The Report of the Policy Commission can be found in Doc. SP0105E2 and the Minutes of the Council in Doc. SC0034E1. The discussions and conclusions of the Policy Commission and the Council on issues relating to the Harmonized System are summarised in the following paragraphs.

Note : Shaded parts will be removed when documents are placed on the WCO documentation database available to the public.

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II. REPORT OF THE POLICY COMMISSION

Secretary General's Report

4. The Secretary General's written report set out the developments since the Council's last sessions on the work relating to the WCO Strategic Plan with regard to the updating, promoting and uniformly applying the Harmonized System.
5. In his oral report, the Secretary General informed the Policy Commission and the Council that discussions had been under way with the Inter-American Development Bank regarding its specific funding (140,000 Euros) for the use of Spanish as a working language for HS matters. He also announced that, following Bahrain and Yugoslavia, Cambodia and the United Arab Emirates had become the 107th and 108th Contracting Parties to the HS Convention. However, the Secretary General expressed his concern over the fact that 45 Members had not yet implemented the HS 2002 amendments.

Consolidated Planning Document

6. It was noted that the presentations and discussions which had taken place throughout the course of the session would have a significant impact on the planned activities of the WCO. The Chairperson therefore invited the Policy Commission to recommend to the Council that it :
 - note the 2002/2003 consolidated planning document (Doc. SP0098E1) and approve it as a working document;
 - direct the Secretariat to reformulate the planning document to reflect the discussions and developments that had taken place during the Policy Commission's session;
 - note the Secretariat's intention to conduct a detailed review of the overall strategic planning process and documentation and to provide a detailed proposal for consideration at the December 2002 Policy Commission session;
 - encourage Regional Vice-Chairs to take an active role in co-ordinating regional input into the review.

Draft Council Decision setting out Recommendations and Guidelines from the Ad Hoc Group on Committee Structures and Working Methods

7. The Deputy Secretary General introduced this item on the basis of the working document (Doc. SP0099E1). He explained the chronology of the work carried out by the Ad Hoc Group, which had culminated in the presentation of a set of draft recommendations to the Policy Commission in December 2001. The Policy Commission had approved those recommendations, which had now been incorporated in a draft Council Decision.
8. The Council Decision was accompanied by four draft guidelines, which were intended to supplement the recommendations. The draft guidelines concerned : (1) strategic planning (terms of reference and work plans of WCO bodies); (2) the creation of working bodies; (3) improving the efficiency and effectiveness of WCO working bodies (management of meetings, preparation and reading of Reports); and (4) advice for delegations. It was intended that the guidelines be supplemented and updated regularly, to keep pace with

changing circumstances. The third part of the document contained a list of basic reference materials and background information which should be made available to the Chairs of all WCO working bodies, to meeting delegates and to Secretariat officials.

9. Included in the Decision was the reference that “reports should only be read at the end of a meeting where there is a necessity to do so”. The draft Guidelines concerning improving the efficiency and effectiveness of WCO working bodies, which dealt with the preparation and reading of the report, listed the working bodies in which reports, where necessary, will be read at the end of the meeting. While these included the Harmonized System Committee and its Working Party when it immediately precedes the Harmonized System Committee itself, the Review Sub-Committee and the Scientific Sub-Committee were not included in the list.
10. In conclusion, the Policy Commission recommended to the Council that it :
- adopt the draft Decision on implementation of the recommendations made by the Ad Hoc Group on Committee structures and working methods;
 - adopt the Guidelines supplementing the Ad Hoc Group’s recommendations;
 - approve the list of reference material for working body Chairs, delegates and Secretariat staff, and instruct the Secretariat to make the material for delegates available via the Members’ Web site;
 - note that proposals on two outstanding issues – namely the granting of Observer status and the mandate of the Permanent Technical Committee – would be presented to the Policy Commission and the Council at the earliest opportunity.

Innovative approach to the Harmonized System

11. The Director, Tariff and Trade Affairs, summarized the situation regarding the work that had been carried out on this issue since the last session of the Policy Commission (Doc. SP0101E1). He reported that, acting upon the instruction of the Policy Commission, the Secretariat had invited papers from the WCO regions and that only a limited number of responses had been received.
12. Summarizing the responses, the Director reported that there was not a great deal of enthusiasm for a radical review of the Harmonized System (HS), but that two major issues had been identified. The first issue was in regard to the structure of the HS. He observed that there was no doubt that certain parts of the HS needed to be reviewed but that was being addressed under the existing HS review process. In particular, he advised that the HS Review Sub-Committee would start to review the information technology Chapters in September of this year. The second issue concerned the procedural matters, many of which the Council had already examined at past sessions. Regarding the frequency of the HS review, the Council had agreed with the Policy Commission that a 4 to 5 year review cycle would be appropriate. In this connection the Director noted that there were still 45 Contracting Parties that had not yet been able to implement the HS 2002 version. Regarding the speed of the HS decision-making process, he pointed out that so far the fast-track procedure for re-examination of HS matters had not been used often by Contracting Parties; largely for political reasons. Regarding the binding nature of the HS Committee decisions, the Director advised that only two Contracting Parties had adopted the Council

Recommendation on the Application of HSC Decisions and that there was reluctance to move forward with the idea of dispute settlement panels.

13. With regard to the way forward, the Director suggested that there was a need for a high-level working group to examine the procedural issues, rather than referring them back to the HS Committee, which had already examined those issues and had preferred the status quo.
14. Delegates that took the floor did not endorse the need for a fundamental review of the HS, while recognizing that the issues raised were legitimate. It was pointed out that the best aspects of the HS should be retained while addressing the problems. There was support for studying the issue along the approaches outlined in paragraph 36 of Doc. SP0101E1, which were regarded as logical ways to pursue the study as to how to improve the HS, both structurally and procedurally. It was also pointed out that the Review Sub-Committee should be the main vehicle for the structural HS review. There was unanimous support for the Director's proposal to set up a high-level working group to examine the procedural issues.
15. The Chairperson concluded that the Policy Commission :
 - thanked the Secretariat for its report;
 - agreed that there were issues that needed to be addressed, while recognizing that there was no need for a fundamental review of the HS;
 - accepted the Director's proposal to establish a high-level working group to examine the procedural issues relating to the HS and report the result of its work to the Policy Commission at an appropriate time.

III. DECISIONS TAKEN BY THE COUNCIL

16. The Council continued with its practice of examining nomenclature and classification questions as well as other technical matters first in a preparatory session, which was held in parallel with the main Council sessions on topical questions. The results of the preparatory discussions were then presented to the plenary session for the formal adoption by the Council.

Reports of the Harmonized System Committee

17. The Chairperson of the Harmonized System Committee presented the Reports of the 28th and 29th Sessions of the Committee (Docs. NC0510E2 and NC0590E2).
18. On the basis of the recommendation of the preparatory meeting, the Council in plenary session :
 - (1) adopted the draft Recommendation concerning firearms covered by the United Nations Convention against Transnational Organized Crime as set out in Annex M to Doc. NC0590E2.

- (2) At the request of the Czech Republic, the EC, Brazil, the United States and Mexico delegations, referred the following classification questions back to the HS Committee for re-examination, in respect of which reservations had been entered and had been referred to the Council, in accordance with Article 8.3 of the HS Convention :
- the classification of the "Media Composer 1000" and the deletion of Classification Opinion 8543.89/4 (Doc. NC0430E2/H/2) (requested by the Czech Republic)
 - the decision that "photocopying" is limited to the projection of an image onto a photosensitive surface and that present heading 90.09 does not cover digital copying, and the decision to amend the Explanatory Notes accordingly (Doc. NC0430E2/H/4) (requested by the EC and Brazil)
 - the classification of the "HP Mopier 320" digital copier (Doc. NC0430E2/H/4) (requested by the EC and Brazil)
 - the classification of the "Xerox Document Centre 340 ST" digital copier without fax function (Doc. NC0430E2/H/4) (requested by the EC and Brazil)
 - the classification of the "Xerox Document Centre 340 ST" digital copier with fax function (Doc. NC0430E2/H/4) (requested by the EC and Brazil)
 - the classification of the "Brother MFC-8600" digital copier (Doc. NC0430E2/H/4) (requested by the United States)
 - the classification of the "Brother 1970mc" digital copier (Doc. NC0430E2/H/4) (requested by the United States)
 - the classification of bakers' wares (waffles) (Doc. NC0510E2/G/5) (requested by the United States)
 - and, finally, the application of Note 3 to Chapter 29 at the subheading level (requested by Mexico).
- (3) approved the Reports of the 28th and 29th Sessions of the Harmonized System Committee.
- (4) took note of the various HS-related developments referred to in the written report of the Chairperson of the Harmonized System Committee.
19. The discussions at the preparatory meeting focused on the issues raised in respect of technical assistance, implementation of HS 2002 and the HS review cycle, and restructuring the HS Explanatory Notes on the basis of the sub-heading structure.
20. In response to the comments regarding the implementation of the HS 2002 amendments made by the Chairperson and the Director, one delegate felt that many developing countries did not implement in time because they might have thought that the two and a half year implementation period granted to Contracting Parties was too long. With WCO assistance available to developing countries during the transition period, he suggested that the two and half years could be reduced to one and a half years.

21. Another delegate, however, indicated that since the Harmonized System had to be updated regularly to accommodate the various purposes for which it was used, e.g., WTO negotiations, tariff policy, regional agreements, etc., developing countries in fact had many difficulties in keeping up with HS amendments, which were coming too fast. Therefore he questioned whether the review cycle could be slowed down.
22. The Director responded that the Secretariat was always prepared to assist all Members needing technical assistance in implementing the HS 2002 amendments. In this connection, he referred to the publications regarding the impact of the HS 2002 changes and many technical assistance programmes already delivered. He observed that the problem was to get national legislatures to focus on the Harmonized System in a timely way. The Secretariat was also aware, as a new source of concern, of the fact the some regional organisations had not acted as quickly as they should have and their members' efforts in preparing for implementation were consequently delayed.
23. The Director commented that the two and a half year implementation period was provided for in the HS Convention and to reduce it would require amendment of the Convention. But, given the requirement for a legislative process, etc. in many administrations, many administrations had found two and half year to be appropriate and would not likely agree to shorten it. Others had found it was not long enough. In fact the pace of change was also fast for the Secretariat, given all the work that needed to be done.
24. The Director recalled that the issue of the HS review cycle had been discussed on several occasions by the Policy Commission and the Council in the past and there were different points of view. On the one hand there had recently been a lot of pressure from the private sector to the effect that changes to the Harmonized System were not coming fast enough to keep up with the frequent changes in product cycles. On the other hand, other users of the Harmonized System such as the United Nations Statistics Division preferred less frequent changes for stability of trade statistics. The Policy Commission last year had agreed that a five-year HS review cycle was about right.
25. Referring to the related issue of the **Australian** proposal for an innovative approach to the Harmonized System, the Director indicated that the Council was expected to approve the Policy Commission's recommendation to establish a high-level working group to study the procedural issues relating to the HS, including the pace of change, the binding nature of the HSC classification decisions, the decision making process of the HSC and so on. The Director invited administrations to participate in the work of the high level working group, which was expected to come up with recommendations to be addressed by the Policy Commission.
26. A third delegate asked that, during the next review cycle, the HS Explanatory Notes be restructured on the basis of the sub-heading structure as far as possible. In response, the Director indicated that efforts were being made in that regard during the process of the comprehensive review of the HS Explanatory Notes.

Report of the Policy Commission

27. The Council approved the recommendations of the Policy Commission regarding consolidated planning document, the Draft Council Decision setting out Recommendations and Guidelines from the Ad Hoc Group on Committee Structures and Working Methods, and innovative approach to the Harmonized System, which are set out in paragraphs 6, 10 and 15 of this document respectively.

IV. CONCLUSION

28. The Review Sub-Committee and the Harmonized System Committee are invited to take note of the above developments in the Policy Commission (47th Session) and the Council (99th and 100th Sessions). In particular, they are invited to note that, as a result of the Council's approval of the Council Decision setting out Recommendations and Guidelines from the Ad Hoc Group on Committee Structures and Working Methods, the Review Sub-Committee and the Scientific Sub-Committee will no longer read their reports at the end of their sessions. The new report reading procedure of the Review Sub-Committee, the text of which had been accepted by the HSC at its 28th Session (see Doc. NC0510E2 and Doc. NC0457E1), will be officially applied since the 26th Session of the Review Sub-Committee. Since its 18th Session, the Scientific Sub-Committee will also officially apply its new report reading procedure that it agreed to try at its 17th Session (see Doc. NS0060E2).
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